

## Internal Revenue Service, Treasury

## § 48.4041-3

when the title to the article sold passes from the retailer to a purchaser.

(2) When title passes is dependent upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes.

(3) In the case of a sale on credit, the tax attaches whether or not the purchase price is actually collected.

(4) Where a consignor (such as a manufacturer) consigns articles to a consignee (such as a dealer), retaining ownership in them until they are disposed of by the consignee, title does not pass, and the tax does not attach, until sale by the consignee. Where the relationship between a manufacturer and a dealer is that of principal and agent, title does not pass, and the tax does not attach, until sale by the dealer.

(5) In the case of a lease, an installment sale, a conditional sale, or a chattel mortgage arrangement or similar arrangement creating a security interest, a proportionate part of the tax attaches to each payment. See section 4217 and the regulations thereunder for a limitation on the amount of tax payable on lease payments.

(6) In the case of use by the manufacturer, the tax attaches at the time the use begins.

[T.D. 7536, 43 FR 13515, Mar. 31, 1978, as amended by T.D. 8879, 65 FR 17155, Mar. 31, 2000]

### § 48.0-3 Exemption certificates.

Several sections of the regulations in this part, relating to sales exempt from retailers or manufacturers excise tax, require the retailer or manufacturer (as the case may be) to obtain an exemption certificate from the purchaser to substantiate the exempt character of the sale. Many of these sections also contain specimen forms of acceptable exemption certificates. However, any form of exemption certificate will be acceptable if it includes all the information required to be contained in such a certificate by the pertinent sections of the regulations in this part. If it contains all the required informa-

tion, a form of exemption certificate that is processed by data processing equipment is acceptable.

[T.D. 7536, 43 FR 13516, Mar. 31, 1978. Redesignated by T.D. 8043, 50 FR 32014, Aug. 8, 1985]

## Subparts B-E [Reserved]

## Subpart F—Special Fuels

SOURCE: T.D. 6505, 25 FR 11217, Nov. 26, 1960, unless otherwise noted.

### § 48.4041-0 Applicability of regulations relating to diesel fuel after December 31, 1993.

Sections 48.4041-3 through 48.4041-17 do not apply to sales or uses of diesel fuel after December 31, 1993. For rules relating to the diesel fuel tax imposed by section 4041 after that date, see § 48.4082-4.

[T.D. 8659, 61 FR 10453, Mar. 14, 1996]

### § 48.4041-3 Application of tax on sales of special motor fuel for use in motor vehicles and motorboats.

(a) *In general.* The tax imposed by paragraph (2)(A) of section 4041 (a), (or before April 1, 1983, paragraph (1) of section 4041 (b)), applies to the taxable sale of special motor fuel by any person to an owner, lessee, or other operator of a motor vehicle or motorboat, for use as a fuel in the motor vehicle or motorboat. The tax does not apply to special motor fuel sold for use on or after April 1, 1983, and before October 1, 1988, in an off-highway business use.

(b) *Liability for tax.* The tax on the taxable sale of special motor fuel is payable by the person who sells the special motor fuel to the owner, lessee, or other operator of a motor vehicle or motorboat.

(c) *Rate of tax—(1) In general.* Tax is imposed on the sale of special motor fuel at the rate applicable on the date on which the special motor fuel is sold. See § 48.4041-1(b)(2) for rates. The test of taxability at the rates specified in § 48.4041-1(b)(2) (i)(A) and (ii)(A) is whether the fuel is to be used in a motor vehicle or motorboat. For purposes of paragraphs (c) (2) and (3) of this section, the term “qualified business use” has the same meaning as